

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN ALFARO,

Petitioner, No. CIV S-03-0093 DFL KJM P

vs.

D. RUNNELS,

Respondent. ORDER

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Petitioner has timely filed a request for a certificate of appealability under 28 U.S.C. § 2253(c) concerning the denial of his application for writ of habeas corpus. Judgment was entered in this action on March 31, 2006.

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues satisfy the required showing or must state the reasons why such a certificate should not issue. Fed. R. App. P. 22(b).

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For the reasons set forth in the magistrate judge's February 28, 2006 findings and recommendations, petitioner has not made a substantial showing of the denial of a constitutional right. Accordingly, a certificate of appealability should not issue in this action.

IT IS SO ORDERED.

DATED: 5/9/2006

DAVID F. LEVI